

- SAC*
- A2*
72. (New) The apparatus of claim 1, wherein:
the sensor support is capable of maintaining the sensor at a distance away from
the fixation device.
73. (New) The apparatus of claim 1, wherein:
the sensor support is capable of maintaining the sensor at a location that is
outside of an area encompassed by the fixation device.
74. (New) The apparatus of claim 1, wherein:
a shape of the sensor support is independent of a shape of the fixation device.
- DW EG*
75. (New) The apparatus of claim 1, wherein:
the sensor support is capable of maintaining the sensor at a location that
prevents the sensor from contacting the fixation device.

REMARKS

With the addition of claims 70-75, claims 1-75 are now pending in the above-referenced application. Applicants acknowledge that claims 20-23 and 41-69 have been withdrawn from consideration pursuant to the election made by Applicants in the Response To Restriction Requirement dated November 4, 1999.

Claims 1-4, 19, and 24-26 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,967,986 to Cimochowski et al. ("Cimochowski").
Applicants have amended claim 1 to recite that the sensor support includes a surface for receiving a sensor. Support for this amendment is found at least at page 7, lines 15-19, of the specification. In rejecting these claims, the Examiner states that Cimochowski teaches "an endoluminal implant comprising a fixation device and a sensor for attachment to the device." Office Action at page 3. As support for this assertion, the Examiner relies on Figure 19.

Although Applicants have no reason to dispute the accuracy of this quoted statement, Applicants submit that Cimochowski nevertheless does not anticipate claim 1. In order for a reference to anticipate a claim, "every element of the claimed invention must be identically shown in a single reference." In re Bond, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) (emphasis added). Therefore, in order to demonstrate that Cimochowski anticipates claim 1, the Examiner is obliged by § 102 to establish that

Cimochowski identically teaches not only a fixation device, but also a sensor support that is coupled to the fixation device and that includes a surface for receiving the sensor. The example of Figure 19 does not provide sufficient evidence to establish that Cimochowski anticipates claim 1. As stated at column 22, lines 50-51, "FIG. 19 illustrates an integrated circuit (IC) sensor 220 mounted on a stent body 222." Even if the stent in Figure 19 could be appropriately characterized as a "fixation device", Figure 19 would still not demonstrate that claim 1 is anticipated. For Figure 19 to anticipate claim 1, claim 1 would have to recite that the fixation device itself receives the sensor. Quite clearly, claim 1 does not recite this. Instead of reciting that the sensor is mounted on the fixation device, claim 1 recites a sensor support, and not the fixation device itself, as the element for receiving the sensor. This is an element that Figure 19 does not teach or suggest, since the sensor in that situation is mounted on the stent itself. Moreover, as the following quotations from Cimochowski demonstrate, none of the other embodiments in this reference teaches such a sensor support because these other embodiments either mount their respective sensors on the stent itself or integrate the sensor within a wall of the stent, but they do not provide the sensors on a sensor support coupled to the stent. For instance, at column 16, lines 30-31, it is stated that "[a]n ultrasonic transducer for monitoring flow or fluid velocity through a stent should be relatively compact included in or mounted on the wall of a stent." In the embodiments of Figures 13-15, the sensors (also referred to in the patent as conformal array transducers 174a and 174b) "are disposed on opposite sides of a stent." Col. 16, ll. 48-49. Specifically, in Figure 14, the sensor is form-fitted to the inner or outer surface of a stent. Col. 18, ll. 35-40. The embodiment of Figure 17 shows an apparatus in which the sensor "can be included within the structure of a stent, i.e., within its wall." Col. 20, ll. 48-50. What these selected passages from Cimochowski demonstrate is that Cimochowski provides no teaching or suggestion of an apparatus in which a sensor is received, not by a fixation device, but by a sensor support that is coupled to that fixation device. In view of this discussion, Applicants submit that Cimochowski does not anticipate claim 1 under 35 U.S.C. § 102(e).

As for claims 2-4, Applicants submit that these claims are patentable for at least the same reasons given in support of the patentability of claim 1.

Although containing limitations that are worded differently than those in claim 1, claim 19 also is not anticipated by Cimochowski for much the same reasons given above in connection with claim 1. Claim 19 recites a fixation device and at least one sensor carrier coupled to the fixation device. The claim further recites that the sensor is supported by the

sensor carrier. As explained above, Cimochowski teaches stents that do not include any sensor carriers or supports, but that instead support sensors by themselves, either by having the sensors mounted thereon, or by having the sensors integrated within their respective walls. In view of this discussion, Applicants submit that Cimochowski does not anticipate claim 19 under 35 U.S.C. § 102(e).

Independent claims 24 and 25 are method claims that recite the step of placing a sensor onto or into a sensor support coupled to a fixation device. Since Cimochowski does not teach or suggest a sensor support as recited in the claims, it necessarily follows that Cimochowski also does not teach or suggest these steps recited in claims 24 and 25. Accordingly, for these reasons, Applicants submit that claims 24 and 25 are not anticipated by Cimochowski.

As for claim 26, Applicants submit that this claim is patentable for at least the same reasons given in support of the patentability of claim 24.

Claims 5-18 and 27-40 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cimochowski. With respect to claims 5-18, Applicants submit that these claims are patentable for at least the same reasons given in support of the patentability of claim 1. As for claims 27-37, Applicants submit that these claims are patentable for at least the same reasons given in support of the patentability of claim 24. Notwithstanding the above, Applicants further submit that in rejecting claims 5-18 and 27-40, the Examiner has not provided sufficient evidence to demonstrate the obviousness of the subject matter recited in these claims. In particular, the discussion of the Examiner includes broad statements about an anchoring ring being an alternative for an endoluminal implant. Respectfully, this is not enough to establish the unpatentability of these claims. The claims included in this rejected do not just recite limitations on anchoring rings in general - they recite other limitations, such as, for instance, limitations on the particular details of the anchoring ring (claims 6-10). These claims also contain limitations unrelated to anchoring rings, such as the details of the coupling of the sensor to the sensor support (claims 30, 31, 33, 34). Therefore, if the Examiner insists on maintaining the rejection of these claims, Applicants respectfully request that the Examiner specifically point out which portions of the reference(s) relied on teach or suggest the particular limitations of the claims in question.

As for claims 38-40, Applicants submit that Cimochowski does not show a sensor that is coupled to the bodily lumen itself. If the Examiner disagrees with this assertion, Applicants respectfully request that the Examiner specifically point out those

portions of Cimochowski that teach or suggest such a feature, including the limitations of using sutures or adhesives to accomplish this coupling to the bodily lumen.

Applicants have added new claims 70-75. Support for claim 70 is found at least at page 12 of the specification. Support for claim 71 is found at least at pages 9 and 10 of the specification. Support for claims 72 and 73 is found at least at Figures 2A and 2B. Support for claim 74 is found at least at page 8, lines 8 and 9 of the specification. Support for claim 75 is found at least at Figures 3A and 3B. Applicants submit that none of new claims 70-75 is either taught or suggested by Cimochowski.

The present invention is new, non-obvious, and useful. Reconsideration and allowance of the claims are respectfully requested.

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Respectfully Submitted,

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